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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/804,269

03/19/2004

Stephen G. Armstrong

P68.2-11514-US01

7435

490

7590

12/15/2006

VIDAS, ARRETT & STEINKRAUS, P.A.  
6109 BLUE CIRCLE DRIVE  
SUITE 2000  
MINNETONKA, MN 55343-9185

EXAMINER

MORGAN JR, JACK HOSMER

ART UNIT

PAPER NUMBER

3782

DATE MAILED: 12/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

### Office Action Summary

Application No.

10/804,269

Applicant(s)
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ARMSTRONG, STEPHEN G.

**Examiner**

**Jack H. Morgan**

**Art Unit**

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2004.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 5/20/04, 8/29/05, 1/18/06.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the element of claim 20 which is located between to edges of the bag that do not define the bag opening must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

2. The disclosure is objected to because of the following informalities:

Page 2, line 17, "Minica" should be spelled --Miniea--.

Appropriate correction is required.

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 4, 7, 10, 11, 13, 14, 15, 16, 18, 19, 21 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Huffer (US PG-Pub 2003/0152296A1). Huffer discloses a reclosable bag (Fig 1) comprising a bag portion defining a bag interior and an opening (28), means for opening and closing the opening comprising opposed interlocking features along the bag opening (36 and 34) and a slider (30) in said bag

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opening, a passageway (76) in said slider, and a means for selectively opening and closing said passageway (80 and 84) comprising a one-way flapper valve (Fig 5a) configured to allow access to the outside area from the bag interior [0028].

In regards to claims 10 and 11, the slider has a shape complementary to the shape of the end of the bag opening to permit the slider to seal against the end of the bag opening [0027] and a first detent (62) on the slider and second detent (60) on the bag are proximate to the end of the bag opening and are configured to engage one another.

In regards to claims 13-16, 18, 19 and 22 the limitations of the claims have been met in the above paragraphs.

In regards to claim 21 the slider element is located between edges which define the bag opening.

5. Claim 20 is rejected under 35 U.S.C. 102(e) as being anticipated by ErkenBrack (US 6,964,519). ErkenBrack discloses a reclosable bag (Fig 1) comprising a bag portion (2a and 2b) a slider (3) and element (16) located between two edges of the bag that do not define the bag opening, said element having a passageway with means to open and close said passageway (Fig 13).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huffer (US PG-Pub 2003/0152296A1). While the one way valve of Huffer allows access to the outside area from the bag interior it would have been obvious to one of ordinary skill in the art to rearrange the parts, specifically to switch the direction of the flapper valve in order to allow access to the interior from the outside. It has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

7. Claims 5, 6 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huffer (US PG-Pub 2003/0152296A1) in view of Haberman (US 6,116,457). Huffer discloses all the limitations of the claims except a passageway configured to accept the coupling of a removable suction device to permit access to the bag interior on application of suction and a method including the steps of inserting a tube into the passageway, applying suction to the free end of the tube and removing the tube from the passageway. Haberman discloses a valve that is sensitive to a positive pressure inside the container that is configured to accept a suction device (Col 3, line 30 to Col

4, line 5) in order to draw liquid out of the container. In addition, Haberman discloses the method of claim 17 in a straw inserted into the orifice which can then have suction applied (Col 4, lines 3-5), and after the user has had enough to drink, the straw is removed in order to allow the valve to close back up. While Haberman does not disclose the removal of the drinking straw from his orifice, it would be obvious to do so, as the intent of his invention is to create a valve that will close back up (Col 2, lines 1-7). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to create the recloseable bag of Huffer with the valve of Haberman in order to draw liquid out of the bag.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huffer (US PG-Pub 2003/0152296A1) in view of Buchman (US 6,698,926). Huffer discloses all the limitations of the claim except for the slider having opposed side faces to slidably engage with one of said opposed interlocking features along the bag opening. Buchman discloses a bag closing slider (Fig 1, 28) with side faces (82 and 84) configured to engage with the interlocking features (46 and 50) in order to remove debris from the locking area (Col 5, lines 18-24). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to create the slider of Huffer with the opposed side faces of Buchman in order to remove debris from the locking area.

9. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huffer (US PG-Pub 2003/0152296A1) in view of Plourde (US PG-Pub 2003/0235351).

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Huffer discloses all the limitations of the claim except for the slider having opposed side faces to slidably engage with one of said opposed interlocking features along the bag opening where the interlocking features are a tongue and groove and the side face which slidably engages the tongue contains a groove and the side face which slidably engages the groove contains a tongue. Plourde discloses an assembly for a slider mounted inside a zipper for reclosable packaging (Fig 3) where a slider (20) has side faces (side faces of slider 20 shown in figure 3) one with a groove (between 66 and 64 or between 70 and 64) to slidably engage the tongue interlocking feature (28, 34, 30), and the other with a tongue (68 or 70) to slidably engage the groove interlocking feature (38, 40, 42, 44, 46) in order to move the two interlocking features together and apart to open and close the bag (see figures 2 and 3, [0036-0039]). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to create the slider of Huffer with the opposed tongue and groove side faces of Plourde in order to move the interlocking features together and apart to open and close the bag.

10. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huffer (US PG-Pub 2003/0152296A1) in view of Savicki (US 6,431,754). Huffer discloses all the limitations of the claim except for the first and second detent being raised portions configured to produce a snap fit. Savicki discloses a first detent (Fig 6, 180) and second detent (Fig 6, left of 159) which are raised portions configured to attach the slider to the end stop (Fig 6, 134; Col 5, lines 35-45) and lock the bag in a closed position (Fig 1). Therefore it would have been obvious to one of ordinary skill in the art at the time the



invention was made to create the bag of Huffer with the end stop and raised detents of Savicki in order to attach the slider to an end stop and lock the slider while the bag was in the closed position.

11. Claims 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over ErkenBrack (US 6,581,253) in view of ErkenBrack (US 5,142,970). ErkenBrack (US 6,581,253) discloses a reclosable bag defining a bag interior and a bag opening and a slider. ErkenBrack (US 6,581,253) does not disclose an element located between two edges of the bag, said element having a passageway with means to open and close the passageway, the passageway being located between two edges that do not define the bag opening. ErkenBrack (US 5,142,970) discloses a reclosable bag with an element (Fig 9) located between two edges of the bag (defining the opening 41), the element having a passageway (82) with means to open and close the passageway (74) in order to create a vacuum inside the bag (Abstract). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to create the reclosable bag with a slider of ErkenBrack (US 6,581,253) with the element of ErkenBrack (US 5,142,970) in order to create a vacuum inside the bag.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Richardson et al. (US 5,301,395).


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack H. Morgan whose telephone number is 571-272-3385. The examiner can normally be reached on M-Th 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jack Morgan  
AU 3727  
December 4, 2006

  
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SUPERVISORY PATENT EXAMINER